



General Assembly

January Session, 2003

***Raised Bill No. 971***

LCO No. 3518

Referred to Committee on Program Review and Investigations

Introduced by:  
(PRI)

***AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE  
LEGISLATIVE PROGRAM REVIEW AND INVESTIGATIONS  
COMMITTEE CONCERNING DEPARTMENT OF MENTAL  
RETARDATION CLIENT HEALTH AND SAFETY.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (a) of section 17a-210 of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective*  
3 *October 1, 2003*):

4 (a) There shall be a Department of Mental Retardation. The  
5 Department of Mental Retardation, with the advice of a Council on  
6 Mental Retardation, shall be responsible for the planning,  
7 development and administration of complete, comprehensive and  
8 integrated state-wide services for persons with mental retardation and  
9 persons medically diagnosed as having Prader-Willi syndrome. The  
10 Department of Mental Retardation shall be under the supervision of a  
11 Commissioner of Mental Retardation, who shall be appointed by the  
12 Governor in accordance with the provisions of sections 4-5 to 4-8,  
13 inclusive. The Council on Mental Retardation may advise the  
14 Governor on the appointment. The commissioner shall be a person

15 who has background, training, education or experience in  
16 administering programs for the care, training, education, treatment  
17 and custody of persons with mental retardation. The commissioner  
18 shall be responsible, with the advice of the council, for: (1) Planning  
19 and developing complete, comprehensive and integrated state-wide  
20 services for persons with mental retardation; (2) the implementation  
21 and where appropriate the funding of such services; and (3) the  
22 coordination of the efforts of the Department of Mental Retardation  
23 with those of other state departments and agencies, municipal  
24 governments and private agencies concerned with and providing  
25 services for persons with mental retardation. The commissioner shall  
26 be responsible for the administration and operation of the state  
27 training school, state mental retardation regions and all state-operated  
28 community-based residential facilities established for the diagnosis,  
29 care and training of persons with mental retardation. The  
30 commissioner shall be responsible for establishing standards,  
31 providing technical assistance and exercising the requisite supervision  
32 of all state-supported residential, day and program support services  
33 for persons with mental retardation and work activity programs  
34 operated pursuant to section 17a-226. The commissioner shall conduct  
35 or monitor investigations into allegations of abuse and neglect and file  
36 reports as requested by state agencies having statutory responsibility  
37 for the conduct and oversight of such investigations. In the event of the  
38 death of a person with mental retardation while such person is living  
39 in a residence licensed or operated by the department, the  
40 commissioner shall ensure that a comprehensive and timely review of  
41 the events, overall care, quality of life issues and medical care  
42 preceding such death is conducted by the department and shall, as  
43 requested, provide information and assistance to the Independent  
44 Mortality Review Board established by Executive Order No. 25 of  
45 Governor John G. Rowland. The commissioner shall stimulate research  
46 by public and private agencies, institutions of higher learning and  
47 hospitals, in the interest of the elimination and amelioration of  
48 retardation and care and training of persons with mental retardation.

49 Sec. 2. Section 17a-227 of the general statutes is repealed and the  
50 following is substituted in lieu thereof (*Effective October 1, 2003*):

51 (a) No person, firm or corporation shall conduct or maintain within  
52 this state a residential facility which it owns, leases or rents for the  
53 lodging, care or treatment of persons with mental retardation or  
54 autistic persons unless such person, firm or corporation, upon written  
55 application, verified by oath, has obtained a license issued by the  
56 Department of Mental Retardation.

57 (b) The commissioner shall adopt regulations, in accordance with  
58 the provisions of chapter 54, to insure the comfort, safety, adequate  
59 medical care and treatment of such persons at such residential  
60 facilities. Such regulations shall include requirements that: (1) All  
61 residential facility staff be trained in cardiopulmonary resuscitation; (2)  
62 records of staffing schedules and actual staff hours worked, by  
63 residential facility, shall be available for inspection by the department  
64 upon advance notice; (3) each residential facility develop and  
65 implement emergency plans and staff training to address emergencies  
66 that may pose a threat to the health and safety of the residents of the  
67 facility; and (4) department inspectors verify during licensing  
68 inspections, (A) that staff is adequately trained to respond in an  
69 emergency, and (B) that a summary of information on each resident is  
70 available to emergency medical personnel for use in an emergency;  
71 and (5) at least half of the inspections conducted by the department  
72 after initial licensure are unannounced.

73 (c) After receiving an application and making such investigation as  
74 is deemed necessary and after finding the specified requirements to  
75 have been fulfilled, the department shall grant a license to such  
76 applicant to conduct a facility of the character described in such  
77 application, which license shall specify the name of the person to have  
78 charge and the location of such facility. Any person, firm or  
79 corporation aggrieved by any requirement of the regulations or by the  
80 refusal to grant any license may within twenty days of any order

81 directing the enforcement of any provision of such regulations or the  
82 refusal of such license, appeal therefrom in accordance with the  
83 provisions of section 4-183, except venue for such appeal shall be in the  
84 judicial district in which such facility is located. If the licensee of any  
85 such facility desires to place in charge thereof a person other than the  
86 one specified in the license, application shall be made to the  
87 Department of Mental Retardation, in the same manner as provided  
88 for the original application, for permission to make such change. Such  
89 application shall be acted upon within ten days from the date of the  
90 filing of same. Each such license shall be renewed annually upon such  
91 terms as may be established by regulations and may be revoked by the  
92 department upon proof that the facility for which such license was  
93 issued is being improperly conducted, or for the violation of any of the  
94 provisions of this section or of the regulations adopted pursuant to this  
95 subsection, provided the licensee shall first be given a reasonable  
96 opportunity to be heard in reference to such proposed revocation. Any  
97 person, firm or corporation aggrieved by such revocation may appeal  
98 in the same manner as hereinbefore provided. Each person, firm or  
99 corporation, upon filing an application under the provisions of this  
100 section for a license for a facility providing residential services for five  
101 or more persons, shall pay to the State Treasurer the sum of fifty  
102 dollars.

103     [(c)] (d) Notwithstanding any regulation to the contrary, subject to  
104 the provisions of this section, the Department of Mental Retardation  
105 may contract, within available appropriations, with any organization  
106 for the operation of a community-based residential facility, provided  
107 such facility is licensed by the [Department of Mental Retardation]  
108 department. The department shall include in all contracts with such  
109 organizations, provisions requiring the department to (1) conduct  
110 periodic reviews of contract performance, and (2) take progressive  
111 enforcement actions if the department finds poor performance or  
112 noncompliance with the contract, as follows: (A) The organization  
113 shall be placed on a strict schedule of monitoring and oversight by the  
114 department; (B) the organization shall be placed on a partial-year

115 contract; and (C) payments due under the contract shall be reduced by  
116 specific amounts on a monthly basis until the organization complies  
117 with the contract. If compliance cannot be achieved, the department  
118 shall terminate the contract.

119 [(d)] (e) The department may contract with any person, firm or  
120 corporation to provide residential support services for persons with  
121 mental retardation who reside in settings which are not licensed by the  
122 department. The commissioner shall adopt regulations, in accordance  
123 with the provisions of chapter 54, to ensure the safety, adequate  
124 supervision and support of persons receiving residential support  
125 services.

126 [(e)] (f) Any person, firm or corporation who conducts any facility  
127 contrary to the provisions of this section shall be fined not more than  
128 one thousand dollars or imprisoned not more than six months or both.  
129 Any person, firm or corporation who conducts any facility contrary to  
130 the regulations adopted pursuant to subsection (b) of this section shall  
131 be fined not more than one thousand dollars.

132 Sec. 3. Subsection (a) of section 46a-11c of the general statutes is  
133 repealed and the following is substituted in lieu thereof (*Effective*  
134 *October 1, 2003*):

135 (a) The director, upon receiving a report that a person with mental  
136 retardation allegedly is being or has been abused or neglected, shall  
137 make an initial determination whether such person has mental  
138 retardation, shall determine if the report warrants investigation and  
139 shall cause, in cases that so warrant, a prompt, thorough evaluation to  
140 be made to determine whether the person has mental retardation and  
141 has been abused or neglected. In cases where there is a death of a  
142 person with mental retardation, including the death of a person with  
143 mental retardation who lived in residential facilities operated or  
144 licensed by the Department of Mental Retardation, and there are  
145 allegations that such death may be due to abuse or neglect, the director  
146 shall conduct an investigation to determine whether abuse or neglect

147 occurred, except as may be otherwise required by court order. The  
 148 director, in consultation with the Commissioner of Mental Retardation,  
 149 shall establish protocols for the conduct of such investigations relating  
 150 to persons who lived in such residential facilities. For the purposes of  
 151 sections 46a-11a to 46a-11g, inclusive, the determination of mental  
 152 retardation may be made by means of a review of records and shall not  
 153 require the director to conduct a full psychological examination of the  
 154 person. Any delay in making such determination of mental retardation  
 155 shall not delay the investigation of abuse or neglect or  
 156 recommendation of provision of protective services. The evaluation  
 157 shall include a visit to the named person with mental retardation and  
 158 consultation with those individuals having knowledge of the facts of  
 159 the particular case. All state, local and private agencies shall have a  
 160 duty to cooperate with any investigation conducted by the Office of  
 161 Protection and Advocacy for Persons with Disabilities under this  
 162 section, including the release of complete client records for review,  
 163 inspection and copying, except where the person with mental  
 164 retardation refuses to permit his or her record to be released. The  
 165 director shall have subpoena powers to compel any information  
 166 related to [his] such investigation. All client records shall be kept  
 167 confidential by said office. Upon completion of the evaluation of each  
 168 case, written findings shall be prepared which shall include a  
 169 determination of whether abuse or neglect has occurred and  
 170 recommendations as to whether protective services are needed. The  
 171 director, except in cases where the parent or guardian is the alleged  
 172 perpetrator of abuse or is residing with the alleged perpetrator, shall  
 173 notify the parents or guardian, if any, of the person with mental  
 174 retardation if a report of abuse or neglect is made which the director  
 175 determines warrants investigation. The director shall provide the  
 176 parents or guardians who [he] the director determines are entitled to  
 177 such information with further information upon request. The person  
 178 filing the report of abuse or neglect shall be notified of the findings  
 179 upon request.

180 Sec. 4. (*Effective October 1, 2003*) The Department of Mental

181 Retardation shall transfer to the Office of Protection and Advocacy one  
182 investigator position to enable the office to investigate deaths of  
183 persons with mental retardation who lived in residential facilities  
184 operated or licensed by such department where allegations of abuse or  
185 neglect are present, as provided in section 46a-11c of the general  
186 statutes, as amended by this act.

This act shall take effect as follows:	
Section 1	<i>October 1, 2003</i>
Sec. 2	<i>October 1, 2003</i>
Sec. 3	<i>October 1, 2003</i>
Sec. 4	<i>October 1, 2003</i>

***Statement of Purpose:***

To strengthen administrative and oversight procedures in matters relating to the health and safety of persons with mental retardation.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*